

**61ST MEETING OF THE  
INTERNATIONAL WHALING  
COMMISSION (IWC) TO BE HELD  
IN MADEIRA, PORTUGAL  
JUNE 22-26, 2009**

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**OVERSIGHT HEARING**

BEFORE THE

SUBCOMMITTEE ON INSULAR AFFAIRS,  
OCEANS AND WILDLIFE

OF THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

Wednesday, May 20, 2009

**Serial No. 111-20**

Printed for the use of the Committee on Natural Resources



Available via the World Wide Web: <http://www.gpoaccess.gov/congress/index.html>

or

Committee address: <http://resourcescommittee.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

49-786 PDF

WASHINGTON : 2009

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**OVERSIGHT HEARING IN ADVANCE OF THE  
61ST MEETING OF THE INTERNATIONAL  
WHALING COMMISSION (IWC) TO BE HELD  
IN MADEIRA, PORTUGAL, JUNE 22-26, 2009**

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**Wednesday, May 20, 2009  
U.S. House of Representatives  
Subcommittee on Insular Affairs, Oceans and Wildlife  
Committee on Natural Resources  
Washington, D.C.**

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The Subcommittee met, pursuant to call, at 1:12 p.m. in Room 1324, Longworth House Office Building, Hon. Madeleine Z. Bordallo, [Chairwoman of the Subcommittee] presiding.

Present: Representatives Bordallo, Brown and Young.

**STATEMENT OF THE HONORABLE MADELEINE Z. BORDALLO,  
A DELEGATE IN CONGRESS FROM GUAM**

Ms. BORDALLO. Good afternoon, everyone. The hearing will come to order. The Subcommittee is meeting today to hear testimony regarding the 61st Annual Meeting of the International Whaling Commission to be held in Madeira, Portugal, from June 22 through the 26th. Pursuant to Committee Rule 4[g], the Chairwoman and the Ranking Minority Member will make opening statements.

The IWC was established in 1946 to conserve whales for future generations and to regulate the then-extensive whaling industry. When whaling quotas failed to protect these stocks, the IWC instituted a moratorium on the commercial killing of whales in 1936. While the moratorium has had a positive effect on many whale populations, Norway, Iceland and Japan have for decades called for the lifting of the moratorium and its replacement with a regulated commercial industry.

At the same time, Japan and Iceland continue to invoke Article VIII of the International Convention for the Regulation of Whaling to conduct commercial whaling under the pretext of scientific research. They continue to do so despite the fact that there is near universal agreement among scientists that the lethal take of whales is unnecessary for scientific data collection. Many of these issues are likely to be debated at this year's IWC meeting and there will likely be much discussion about the Commission's future.

We must be very careful, however, that our efforts to save the institution do not come at the expense of the very species it was intended to protect. Today I am joining 34 of my colleagues writing to President Obama to express serious concern about an International Whaling Commission Small Working Group effort, which includes the United States, which would lift the commercial

whaling moratorium, give new rights to Japan to kill protected whales and permit whaling on the high seas to continue.

Although it did not finalize negotiations on its proposal, the Small Working Group very likely will continue to discuss allowing Japan to engage in commercial whaling called “coastal whaling” off its shores in exchange for a vague promise to cut or eliminate the number of whales it takes each year in the Southern Ocean. The proposal would provide no guarantee that the number of whales killed would actually be decreased, as was its purported goal.

Instead of negotiating any such proposal we, the signatories of the letter, urge the new Administration to issue new instructions to the U.S. Delegation to the IWC to carry out the intent of Congress and the will of the American people to protect and conserve whales. Specifically, our letter urges the Administration and the U.S. Delegation to preserve the moratorium, stand in strong opposition to existing commercial and scientific whaling, and reject any proposal that would create a new category of commercial whaling, such as coastal whaling.

The U.S. has been, and should remain, a leader in conserving whale species. With threats to whales increasing, such as underwater noise, pollution and climate change, the U.S. should strengthen, rather than compromise, any protections for these extraordinary animals in an effort to ensure that Japan and other pro whaling nations continue to participate in the IWC.

So, with that, I look forward to hearing from our witnesses today and to hearing strong assurances that the United States will hold the line at the meeting in Portugal. As Chairwoman, I now recognize the Ranking Member of this Subcommittee, Mr. Brown, the gentleman from South Carolina.

[The prepared statement of Ms. Bordallo follows:]

**Statement of The Honorable Madeleine Z. Bordallo, Chairwoman,  
Subcommittee on Insular Affairs, Oceans and Wildlife**

The Subcommittee on Insular Affairs, Oceans and Wildlife meets this afternoon to hear testimony regarding the 61st Annual International Whaling Commission Meeting to be held next month in Madeira, Portugal.

The IWC was established in 1946 to conserve whales for future generations and to regulate the then-extensive whaling industry. When whaling quotas failed to protect these stocks, the IWC instituted a moratorium on the commercial killing of whales in 1986.

While the moratorium has had a positive effect on many whale populations, Norway, Iceland, and Japan have for decades called for the lifting of the moratorium and its replacement with a regulated commercial industry.

At the same time, Japan and Iceland continue to invoke Article VIII of the International Convention for the Regulation of Whaling to conduct commercial whaling under the pretext of scientific research. They continue to do so despite the fact that there is near universal agreement amongst scientists that the lethal take of whales is unnecessary for scientific data collection.

Many of these issues are likely to be debated at this year’s IWC meeting, and there will likely be much discussion about the Commission’s future. We must be very careful, however, that our efforts to save the institution do not come at the expense of the very species it was intended to protect.

Today, I am joining 34 of my colleagues writing to President Obama to express serious concern about an International Whaling Commission Small Working Group effort—which includes the United States—which would lift the commercial whaling moratorium, give new rights to Japan to kill protected whales, and permit whaling on the high seas to continue.

Although it did not finalize negotiations on its Proposal, the Small Working Group very likely will continue to discuss allowing Japan to engage in commercial whaling called “coastal whaling” off its shores in exchange for a vague promise to cut, or

eliminate, the number of whales it takes each year in the Southern Ocean. The Proposal would provide no guarantee that the number of whales killed would actually decrease, its purported goal.

Instead of negotiating any such proposal, we the signatories of the letter urge the new Administration to issue new instructions to the U.S. Delegation to the IWC to carry out the intent of Congress and the will of the American people to protect and conserve whales.

Specifically, our letter urges the Administration and the U.S. Delegation to preserve the moratorium, stand in strong opposition to existing commercial and scientific whaling, and reject any proposal that would create a new category of commercial whaling such as "coastal whaling."

The U.S. has been and should remain a leader in conserving whale species. With threats to whales increasing—such as underwater noise, pollution and climate change—the U.S. should strengthen rather than compromise away protections for these extraordinary animals in an effort to ensure that Japan and other pro-whaling nations continue to participate in the IWC.

I'm disappointed that Under Secretary of Commerce for Oceans and Atmosphere, Jane Lubchenco, will not testify this afternoon. I believe we would have learned a great deal about the direction forward for whale conservation not only as we approach the 61st annual meeting of the IWC but also in the months and years beyond. That said, I look forward to hearing from our witnesses today, and to hearing strong assurances that the United States will hold the line at the meeting in Portugal.

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**STATEMENT OF THE HONORABLE HENRY E. BROWN, JR., A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF  
SOUTH CAROLINA**

Mr. BROWN. Thank you, Madam Chair. Today we are going to hear from three witnesses about the upcoming meeting of the International Whaling Commission. I would like to welcome Dr. William Hogarth back to the Subcommittee and especially look forward to his testimony. Dr. Hogarth, as a former Assistant Administrator for Fisheries, has been a valued friend to this Subcommittee for a number of years, and has testified before us on many occasions.

Today, as both the United States Commissioner to the International Whaling Commission and the Chair of the Commission for several years, I think he brings a unique perspective to this hearing, and I thank you for being here, Dr. Hogarth. I would also like to welcome Kitty Block from the Humane Society International. I have a long and wonderful relationship with the Humane Society and value the insight that she can provide for us today. Welcome to the hearing.

I understand the Commission's annual meetings have been getting more and more polarized in the recent past, and the number of large whales being killed every year has increased. I look forward to hearing our witnesses' views on how this might be turned around. I expect we may have a few differences of opinion on the panel today and look forward to hearing the diversity of opinions.

I know the solution to fixing the Commission and reducing the number of whales being killed every year will not be easily resolved, so I look forward to hearing from the witnesses. Thank you all for being here. I look forward to hearing your testimony. Thank you, Madam Chair. I yield back.

[The prepared statement of Mr. Brown follows:]

**Statement of The Honorable Henry E. Brown, Jr., Ranking Republican,  
Subcommittee on Insular Affairs, Oceans and Wildlife**

Good afternoon Madam Chairwoman, today we are going to hear from three witnesses about the upcoming meeting of the International Whaling Commission.

I would like to welcome Dr. William Hogarth back to the Subcommittee. I especially look forward to his testimony. Dr. Hogarth, as the former Assistant Administrator for Fisheries, has been a valued friend to this Subcommittee for a number of years and has testified before us on many occasions. Today, as both the United States Commissioner to the International Whaling Commission and the Chair of the Commission for several years, I think he brings a unique perspective to this hearing. Thank you for being here, Dr. Hogarth.

I would also like to welcome Kitty Block from the Humane Society International. I have had a long and wonderful relationship with the Humane Society and value the insights that she can provide us today. Welcome to the hearing.

I understand the Commission's annual meetings have been getting more and more polarized in the recent past and the number of large whales being killed every year has increased. I look forward to hearing our witnesses' views on how this might be turned around. I suspect we may have a few differences of opinion on the panel today and I look forward to hearing the diversity of opinions. I know the solution to fixing the Commission and reducing the number of whales being killed every year will not be easily resolved so I look forward to hearing from the witnesses.

Thank you, Madam Chair.

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Ms. BORDALLO. I thank the Ranking Member, the gentleman from South Carolina, Mr. Brown. Now I would like to recognize our witnesses' panel: Dr. William T. Hogarth, Chair of the International Whaling Commission; Ms. Kitty Block, Vice President of the Humane Society International; and Dr. C. Scott Baker, Associate Director, Marine Mammal Institute, and Professor, Department of Fisheries and Wildlife at the Oregon State University. Thank you, all of you, for being here today.

I will start by recognizing our first witness this morning, Dr. Hogarth. You can begin. I would like to remind you that we have a five minute rule here in this Subcommittee, and there are timing lights on the table which will indicate when your time is concluded. We would appreciate your cooperation in complying with the limits that have been set, but be assured that your full written statement will be included in the record. Please go ahead, doctor.

**STATEMENT OF WILLIAM T. HOGARTH, Ph.D., UNITED STATES  
COMMISSIONER, INTERNATIONAL WHALING COMMISSION**

Mr. HOGARTH. Thank you, Madam Chair and members of the Subcommittee. I appreciate this opportunity to speak on behalf of the Administration about the upcoming 61st Annual Meeting of the International Whaling Commission, or IWC. As noted, I am Bill Hogarth, and I am testifying today solely in my capacity as the U.S. Commissioner to the IWC. As you know, I recently retired from the Federal government and am now the Dean of the College of Marine Science for the University of South Florida.

With the support of the Obama Administration I have retained my position as U.S. IWC Commissioner and will continue to serve at the pleasure of the President until I step down from this position following the June meeting. I was also elected by consensus to be the chair of the IWC. Before I begin, however, I would like to introduce a written statement on behalf of the Obama Administration.

The Obama Administration would like to see the IWC serve as the premiere international forum to resolve current whale con-



servations issues, coordinate critical research and to address emerging issues for whales, such as climate change and noise. The Administration reaffirms the United States' position that the commercial whaling moratorium is a necessary conservation measure and believes that lethal scientific whaling is unnecessary in modern whale conservation management.

The new Administration is supportive of the future of the IWC and is fully committed to further discussions of critical issues within the IWC. However, the Administration reserves judgment on various proposals regarding a way forward in the IWC until the discussions are completed, which, in its view, must be before the annual meeting in 2010. For any package to be acceptable it must result in significant improvement in the conservation status of whales and be based on sound science.

The Administration will evaluate its options and decide what is best before making any decision, including ensuring it seeks public input before making any decision. My written testimony includes the full statement from the new Administration and gives detailed background on IWC and the many issues that currently confront the Administration. Today I will focus on those issues that explain the current status of the future of the IWC.

The United States' biggest concern at the IWC is that more and more whales are being killed, especially under scientific research whaling. In 1987, approximately 300 whales were taken through research whaling. Since then, the number has increased to more than 1,000 per year. In fact, over 80 percent of all the whales killed are done outside of the jurisdiction of the IWC.

Years of protracted and unresolved debate over the proper means to conserve, manage and study whales has made many IWC countries, including the United States, concerned about the body's future relevancy in controlling unilateral whaling and conserving whale stocks. In 2008, the Commission agreed by consensus to form a Small Working Group, or SWG, and this would be chaired by an independent facilitator, who in this case is Ambassador Alvaro de Soto. The primary task of the SWG has been to develop a package, or packages, for consensus solutions regarding the future of the IWC for review by the Commission.

The final report of the Small Working Group was released on Monday, May 18. In summary, the SWG was not able to reach consensus on a package and has suggested that the process continue for an additional year with a final decision to be made at the annual meeting in 2010. While the United States recognizes the significant achievements that have occurred over the past year, we are very disappointed that the SWG did not make more progress on critical issues facing the Commission.

The United States is committed fully to working with all contracting parties in the next year to complete the process. We are concerned that if real progress is not made over the next year of several discussions currently occurring at the IWC we will relapse into the unproductive exchanges further jeopardizing the relevance of the IWC. In closing, Madam Chair, I want to make very clear several points.

One is that there are no deals, no agreements, there is no Hogarth deal, there is no deal whatsoever, and, in fact, no two mem-

bers can make a deal. It takes three-quarters of vote of 85 members. Also, the U.S. has not changed any of its positions. We currently have the same positions. We believe the moratorium on commercial whaling must stay in place. All of the discussions so far have been that they would stay in place. There is no position taken by the U.S. Government so far in any of the proposals put on the table.

The Administration intends to use its influence to achieve a resolution by 2010 that would ensure the long-term function of the IWC and greater protections for the world's great whales. I would like to thank the Subcommittee members and your staff for holding this hearing and supporting the conservation and management of whales. Thank you.

Ms. BORDALLO. Thank you very much, Dr. Hogarth. Ms. Block, it is a pleasure to welcome you before the Subcommittee. You may begin your testimony.

[The prepared statement of Mr. Hogarth follows:]

**Statement of William T. Hogarth, U.S. Commissioner to the  
International Whaling Commission**

**Introduction**

Good afternoon, Madam Chair and members of the Subcommittee. I appreciate the opportunity to speak with you today about the upcoming 61st annual meeting of the International Whaling Commission (IWC).

I am William Hogarth, U.S. Commissioner to the IWC. Last year, I retired from the Federal Government after fourteen years of service, and accepted the position of Dean of the College of Marine Sciences, University of South Florida. With the support of the Obama Administration, I have retained my position as the U.S. IWC Commissioner and will continue to serve at the pleasure of the President until I step down from this position following the June annual meeting. Dr. Doug DeMaster of the National Marine Fisheries Service remains the Deputy Commissioner. In 2006, I was elected by consensus to assume the role of Chair of the IWC and I continue to serve in that position. I would like to make it very clear, however, that I am testifying today exclusively in my capacity as the U.S. IWC Commissioner and not as Chair of the IWC.

My testimony will provide background information on the IWC, discuss the main issues currently confronting the IWC, and explain the status of the "Future of the IWC" process. I would first like to introduce a written statement on behalf of the Obama Administration. The Obama Administration would like to see the International Whaling Commission (IWC) serve as the premiere international forum to resolve current whale conservation issues, coordinate critical research, and address emerging issues for whales such as climate change and ocean noise. The Administration reaffirms the United States' position that the commercial whaling moratorium is a necessary conservation measure and believes that lethal scientific whaling is unnecessary in modern whale conservation management. While the new Administration began while the Future of the IWC process was well underway, it fully understands the complexities of, and concerns regarding, this process and the key issues facing the IWC. The Administration is supportive of this process and is fully committed to furthering discussions of critical issues within the IWC, including the future of the organization. However, the Administration reserves judgment on various proposals regarding a way forward on the IWC until discussions are completed, which, in its view must occur before the annual meeting in 2010. For any package, to be acceptable, it must result in a significant improvement in the conservation status of whales and be based on sound science. The Administration will evaluate its options and seek public input before making any decision.

**International Whaling Commission**

The International Convention for the Regulation of Whaling (ICRW) was signed in 1946, as a direct result of decades of overharvesting of the great whale species of the world. The primary purpose of the ICRW is the conservation and management of the great whales. The IWC was formed by the ICRW, and is responsible for managing the 13 great whale species—bowhead, North Atlantic right, North Pacific right, southern right, gray, blue, fin, sei, Bryde's, common minke, Antarctic

minke, humpback, and sperm. The IWC adopts regulations by periodically amending the Schedule to the Convention (Schedule), an integral document to the ICRW, which lists measures that govern the conduct of whaling. Amendments to the Schedule must be based on scientific findings and require a three-quarters majority of those IWC members who voted. The ICRW contains provisions that allow member countries to object to Schedule amendments within certain time frames, in which cases such Schedule amendments do not bind the objecting country.

The IWC also provides for aboriginal subsistence whaling to help preserve aboriginal cultures and provide for traditional nutritional needs. This is done through catch limits in the Schedule. The IWC has set catch limits for whale stocks harvested by certain aboriginal groups from the United States, the Russian Federation, Denmark (Greenland), and St. Vincent and the Grenadines.

There are currently 85 member countries to the IWC, with the Commission being split between pro-commercial whaling countries and anti-commercial whaling countries.

### **The Future of the IWC**

In an attempt to resolve some of the contentious issues facing the Commission, the IWC established a process in 2008 to discuss the future of the organization. Years of protracted and unresolved debate over the proper means to conserve, utilize, and study whales have made many IWC members, including the United States, concerned about the body's future relevance in controlling unilateral whaling and conserving whale stocks. Some countries have questioned their continued membership in the Commission as a result of this polarization.

As agreed to by consensus, a Small Working Group (SWG) chaired by an independent moderator, Mr. Alvaro de Soto, was established to develop options for a way forward. The SWG is charged with assisting the Commission to arrive at a consensus solution to the main issues it faces, and thus to enable it to best fulfill its role with respect to the conservation of whale stocks and the management of whaling. The primary task of the SWG is to develop a package or packages for consensus solutions regarding the future of the IWC for review by the Commission.

The SWG has held three meetings: at St Petersburg, Florida, USA, in September 2008; at Cambridge, United Kingdom, in December 2008; and at Rome, Italy in March 2009. The SWG Chairman has submitted to the Commission his progress reports on all three meetings, as well as his final report, which are all available on the IWC website ([www.iwcoffice.org](http://www.iwcoffice.org)). In summary, the SWG was not able to reach consensus on a package and has suggested that the process continue for an additional year with a final decision to be made at the annual meeting in 2010.

Polarization of the IWC threatens the viability of the organization as the premiere international forum for resolving current conservation issues, coordinating critical research, and developing international agreement on whale conservation. There is a consensus view of the 85 IWC member nations that there is a need to resolve the impasse at the IWC regarding many important issues. It is promising that the IWC is now engaged in a process to reduce the polarization among its members to seek resolution of critical issues, including the future of the organization, but there is currently no agreement on the way forward.

There is general agreement among Contracting Governments that the Commission needs to improve the way it conducts its business, and to address the current conflicting opinions among Commission members that make it difficult to reach consensus decisions or to hold constructive discussions. The United States appreciates the frank and collegial dialogue that has prevailed during the meetings of the SWG.

However, while we recognize the significant achievements that have occurred over the past year, there is disappointment among IWC members, including the United States, that the SWG did not make more progress on the critical issues facing the Commission. Breakdown of the current IWC discussions will occur unless we can address the critical issue of scientific whaling. Most countries, including the United States, believe that the science necessary for effective management in the IWC does not require the lethal take of whales. This is one of the most difficult issues for IWC members and must be resolved prior to reaching consensus on a package.

The United States is fully committed to working with all contracting Parties in the next year to complete the process. We are concerned that if real progress is not made over this next year the civil discussion currently occurring in IWC meetings will relapse into unproductive exchanges, further jeopardizing the relevance of the IWC for whale conservation.

There is a real opportunity to make significant progress on the important long-standing issues facing the Commission. We are optimistic that by working together, viable solutions to the IWC's current difficulties can be found. We have encouraged

other member countries to approach the ensuing discussions with an open mind and constructive attitude.

### **Current U.S. Positions on the Key Issues Facing the IWC**

#### *Unregulated Whaling*

Many issues need to be resolved at the IWC. The most serious problem is the occurrence of unregulated scientific and commercial whaling. The IWC is responsible for the conservation and management of the great whales, yet roughly 80 percent of the whales killed today are not regulated by the Commission because they occur either through scientific whaling or whaling under objection.

The moratorium on commercial whaling is a needed conservation measure to protect whales. The moratorium needs to remain in place because the abundance of most whale stocks are either unknown, too low or still recovering. In addition, the IWC has not yet agreed to a sufficiently protective scheme for the monitoring and control of commercial whaling.

However, given the continuation of unregulated whaling since the moratorium took effect in 1986, it has become clear that the moratorium may not be enough to achieve the long-term conservation and policy goals of the United States.

Article VIII of the ICRW allows member countries to unilaterally grant Special Permits to kill whales for the purpose of scientific research. Scientific research whaling has been responsible for the largest increase in the take of whales over the past ten years. In 1987, approximately 300 whales were taken through scientific research whaling; this number has increased to more than 1,000 per year and now includes six species. Since the moratorium, over 12,000 whales have been taken for lethal scientific research. Japan is currently the only member country conducting lethal scientific research. Furthermore, both Iceland and Norway are currently engaged in commercial whaling outside the IWC under reservations or objections to the moratorium and have recently exported whale meat to Japan.

The United States continues to oppose lethal research whaling programs and believes the scientific data needed to improve management and promote recovery of large whale populations can be collected through non-lethal means. Lethal scientific whale research, although allowed under Article VIII of the ICRW, is unnecessary for modern whale conservation and management.

#### *Small-Type Coastal Whaling*

Every year since 1987, Japan has proposed a Schedule amendment to allow small-type coastal whaling (STCW) for four coastal whaling operations, but these proposals have consistently failed to gain the necessary three-quarters majority needed for approval. The United States and many other IWC members have not supported Japan's STCW proposal because of the commercial nature of the proposal and because Japan's STCW proposal is not based on review and input from the IWC's Scientific Committee. We understand Japan has a strong desire to ensure that any package include some accommodation for STCW. However, there are significant concerns that must be addressed about this proposal, including how it would relate to the commercial moratorium, whether it can be scientifically justified, its impacts on Western North Pacific minke whales, especially the depleted J stock of whales, and the potential precedent it may create for other countries to seek a similar proposal.

#### *Bycatch of J Stock Minke Whales*

Another important conservation issue that exists at the IWC is the bycatch of "J" stock minke whales found in Japanese and Korean waters. J stock was depleted to a low level by commercial whaling and bycatch prior to 1986, and continues to be impacted due to ongoing bycatch and research whaling. The IWC Scientific Committee has advised that the current annual removal level is already harming this depleted stock. The current estimated annual bycatch alone of J stock minke whales by Korea and Japan is about 230 animals. The Scientific Committee must carefully review any proposal for STCW by Japan in order to ensure it would avoid additional J stock impacts, and not impede its recovery.

#### *South Atlantic Sanctuary*

The ICRW provides for the establishment of closed areas for the purpose of fostering the conservation and recovery of whale stocks. The United States was a major sponsor of the Southern Ocean Sanctuary adopted by the IWC in 1994. Since 2000, there have been efforts to establish a South Atlantic Sanctuary to complement the Southern Ocean Sanctuary. The United States continues to support the establishment of this sanctuary, as it would promote the conservation and recovery of whale stocks.

Sanctuaries generally provide opportunities to conduct non-lethal research on undisturbed whale stocks, including studies on their life history and population dynamics. The status of most major whale stocks is either still depleted or unknown. Therefore, it is imperative that the IWC make further efforts to establish whale sanctuaries and maintain existing ones to allow for full recovery of all the great whale stocks.

*Whalewatching / Non-lethal use*

The contracting parties of the IWC have recognized non-lethal use of whales as a management option for coastal States. The IWC Scientific Committee has agreed to general guidelines for whalewatching and produced a compilation of whalewatching regulations from around the world. The United States believes that valuable benefits can be derived from the non-lethal uses of cetaceans. We support discussion of whalewatching by the IWC as a sustainable use of whales on the grounds that nothing in the Convention restricts the discussions to lethal utilization of whale resources.

**Conclusion**

In closing, Madam Chair, I would like to reiterate that the United States' position on whale conservation and management has not changed. The United States continues to support the moratorium on commercial whaling and will continue our efforts to end lethal scientific research whaling. The United States is strongly committed to resolving international differences on whaling in the IWC, and preserving the organization as the premiere international body for the effective conservation and management of the great whales. Ending the current discussions without an agreement on the future of the IWC and returning to the status quo would negatively impact the organization as a whole and is an unacceptable outcome to the United States and the majority of member countries. I would like to thank the Committee members and your staff for supporting the conservation and management of whales.

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**STATEMENT OF KITTY BLOCK, VICE PRESIDENT,  
HUMANE SOCIETY INTERNATIONAL**

Ms. BLOCK. Good afternoon, and thank you for inviting me to speak here today. With all the indications of a way forward, a future for the IWC and a new beginning, the compromised deal at its core is an alarming and stealthy retreat to the past. This plan emerged from numerous closed door meeting that kept civil society in the dark, produced proposals to legalize commercial coastal whaling, legitimize scientific whaling, and issue ad hoc quotas on a scientifically unsound basis.

Madam Chair, there is nothing forward thinking about this plan, and it flaunts the cautionary principle that has guided American policy in this arena for decades. It resurrects the worst elements of the previous generation's attempt to fix the IWC. It is a deal that does not deserve, and should not enjoy, the support of the Obama Administration. To be clear, we are not calling for an end to the deliberations about the future of the IWC.

We, too, have a vision of the future. It is one in which through our collective efforts we forestall the most urgent threats to the survival of whales. It is one in which global consensus about the majesty and value of these wonderful creatures is honored to the highest degrees in our laws and in our treaties and international negotiations. It is one in which sanctuary boundaries are recognized and respected and one in which the blight of commercial whaling gives way to the lucrative and sustainable enterprise of responsible whale watching.

The plan and the process that it produced was flawed from the outset, and therefore, unlikely to ever result in the goal of reducing the numbers of whales killed. Part of the problem lies in the fact

that this process was born from a false notion and overreaction to the rhetoric that the IWC is at the point of collapse. The reality is, however, that Japan has been threatening to quit for decades and they have not because they know it is not in their interest to leave.

The other issue impeding the success of this process is the fact that Dr. Hogarth acted with a number of underlying assumptions that are now proven faulty. First, it was believed that Japan was willingly and meaningfully working to reduce the numbers of whales that it slaughters in the Southern Ocean sanctuary, but that has not bore fruit. As of recently, they said they would seek a reduction of 29 whales—down from the numbers killed last year—which gives them a 650 self-allocated quota. Hardly a reduction.

Second, that it was only necessary to cut a deal with Japan while ignoring ongoing coastal commercial whaling by Norway and Iceland. The chair's approach focused almost exclusively on delivering solutions to placate Japan. Meanwhile, Iceland, Norway and Japan have firmly adhered to a business as usual practice, continuing killing whales and restarting a meat trade in international whale meat.

Third, the nonbinding solutions would be sufficient to solidify a deal with Japan. It is simply stunning given Japan's long and infamous history of flagrant disregard for the IWC's conservation measures predating even the moratorium. The idea that a promise would be binding or acceptable to anyone is not something we could ever agree to. The convention guarantees the absolute right to conduct scientific whaling. The only way to stop Japan's abuse of scientific whaling is in fact to remove it from the convention.

Fourth, the mistaken belief that a trade off between scientific and coastal whaling is a practical or suitable solution. Lethal scientific whaling has been rejected by nearly every country around the world as unnecessary. It is just an unethical way around the moratorium. Why should Japan be allowed to trade it off, and to trade off with something as equally objectionable as coastal commercial whaling? Why should Japan, having persistently ignored the international will on these issues and defied the conservation measures of the IWC itself, now be rewarded with part of what it seeks?

This trade off also ignores the inherent problems with resumption of coastal commercial whaling. Coastal whaling is the easiest to undertake, most difficult to control, and consequently has seriously depleted many in source stocks. IWC 61 will be the last meeting with the U.S. Commissioner serving as IWC chair and we have nearly missed our opportunity to articulate a policy designed to recast the debate.

The IWC needs to be transformed into a 21st Century international whale conservation body to address the myriad of environmental threats facing whales and not be dragged back to its 1946 origins. In 2009, it is legally valid and justified for the IWC to place greater emphasis on conservation rather than maintaining an outmoded and bloody industry. Conventions are not static. They are interpreted in an evolutionary matter in order to remain credible and relevant.

Pro whalers will object, undoubtedly, to a significant conservation shift just as anti whalers objected when the IWC placed greater emphasis on commercial whaling decades ago, but neither can argue the Commission is not fulfilling its legal mandates. Times have changed and so, too, have our understanding, our compassion and our respect for these magnificent marine mammals. I agree with those who say the IWC is at a cross-roads, but not because Japan threatens to quit.

Rather, the IWC is in danger of making itself irrelevant by authorizing and enabling a return to regulating commercial whaling rather than seeking its end. I would only add that we can build on what Dr. Hogarth has started by adopting a robust process that is truly forward thinking and one that embraces the widely held views that whales should no longer be slaughtered for commercial gain.

The IWC needs to be modernized and strengthened and the whales fully protected from all commercial hunting. Anything less is unacceptable. Thank you.

Ms. BORDALLO. Thank you very much, Ms. Block, for your comments. Very helpful and informative. Dr. Baker, I am looking forward to hearing from you next, so please begin.

[The prepared statement of Ms. Block follows:]

**Statement of Kitty Block, Vice President, Humane Society International**

Good Afternoon, My name is Kitty Block, Vice President of Humane Society International. On behalf of The Humane Society of the United States and its international arm Humane Society International and our more than 11 million members and supporters I thank you Madame Chair for the opportunity to discuss the crucial import of the United States whale conservation mandate, and the need for a strong U.S. commitment to seeking an end to commercial whaling at IWC 61 in June.

In March of 2008, William Hogarth, Chair of the IWC and U.S. Commissioner, launched an effort to address the future of international whale conservation as managed by the IWC. This endeavor generated numerous meetings, discussions and proposed deals. Dr. Hogarth planned to advance a package deal to be adopted by consensus at IWC 61, however, it was reported Monday that the drafting group was not able to complete an outline of the deal in time to be voted upon in June. Instead Dr. Hogarth intends to seek a commitment from the IWC members at this next meeting to have a compromise deal approved by IWC 62.

Dr. Hogarth's stated reasons for initiating this process were to reduce the acrimony within the IWC and the number of whales killed each year, both worthy goals. However, having started this process, and seen where it has led, the U.S. government has the responsibility to ensure that it doesn't put the IWC and the whales in a worse position. Candidly, that is the course that the Hogarth plan has set.

With all its invocations of a way forward, a future for the IWC, and a new beginning, the compromise deal at its core is an alarming and stealthy retreat to the past, one that bodes ill for whales. This plan emerged from numerous closed door meetings that kept civil society in the dark, produced proposals to legalize coastal commercial whaling, legitimize scientific whaling, and issue ad hoc quotas on a scientifically unsound basis. Madame Chair, there is nothing forward-thinking about this plan, and it flaunts the precautionary principle that has guided American policy in this arena for decades. It resurrects the worst elements of the previous generation's attempts to "fix" the IWC. It is a blueprint for tragedy based on a non-transparent process that now threatens to upend the very real progress made in saving the world's whales. It is, moreover, a most unfortunate product of the U.S. delegation's lack of vision and commitment to our historic conservation mandate throughout the last eight years. It is a deal that the members of the Whales Need U.S. coalition reject, and it does not deserve, and should not enjoy, the support or sanction of the Obama Administration.

To be clear—we are not calling for an end to deliberations about the future of the IWC. We too have a vision of the future. It is one in which through our collective efforts, we forestall the most urgent threats to the survival of whales. It is one in which a global consensus about the majesty and value of these wonderful creatures

is honored to the highest degree in our laws, our treaties, and our foreign policy negotiations. It is one in which sanctuary boundaries are recognized and respected, and one in which the blight of commercial whaling gives way to the lucrative and sustainable enterprise of whale watching.

The United States is uniquely positioned to champion and advance this way forward, through a process that is transparent, principled, and resolute, and one that has as its goal—ending all forms of commercial whaling.

The plan on the table, and the process that produced it, was flawed from the outset and therefore unlikely to ever result in fewer whales killed. Part of the problem lies in the fact that this process was born from a false notion and over-reaction to the rhetoric that the IWC is at the point of collapse requiring urgent resolution at whatever the cost. The reality is however, that Japan has been threatening to leave the IWC for several decades but hasn't done so—its leadership knows that such a decision would go against its interests. Iceland quit in 1992 but rejoined in 2002 recognizing the value and need to be an IWC member. Norway has been a member since 1948 and continues to participate in the meetings even though it has joined a regional marine mammal organization that claims overlapping IWC jurisdiction.

The other issues impeding the success of this process are the fact that Dr. Horgarth acted with a number of underlying assumptions that are now proving faulty.

- First, it was believed that Japan was willing to meaningfully reduce the numbers of whales it slaughters in the Southern Ocean Sanctuary. However, Japan has committed to reducing the numbers killed by only 29 less than last year—leaving a self-allocated quota of 650.
- Second, that it was only necessary to cut a deal with Japan over its so-called scientific whaling while ignoring on-going coastal commercial whaling by both Norway and Iceland. The Chair's approach focused almost exclusively on delivering solutions to placate Japan, while Japan has shown no movement towards conciliation—an all too familiar pattern. Meanwhile Iceland, Norway and Japan have firmly adhered to a business as usual approach to whaling throughout this process including restarting international trade in whale meat.
- Third, that non-binding solutions would be sufficient to solidify a deal with Japan. It is simply stunning—given Japan's long and infamous history of flagrant disregard for IWC conservation measures predating even the moratorium—that a handshake and a nod would be acceptable to anyone. The 1946 Convention guarantees the absolute right to conduct scientific whaling. The only way to ensure that Japan does not continue to abuse this right is to remove it from the Convention. Any limitations on lethal scientific whaling—short of amending the Convention—are neither binding nor enforceable.
- Fourth, the mistaken belief that a trade-off between scientific and coastal whaling is a practical or suitable solution. Lethal scientific whaling has been rejected by nearly every country around the world as unnecessary. It is just an unethical way around the moratorium. Why should Japan be allowed to “trade it off” in exchange for coastal whaling which is equally objectionable? Why should Japan, having persistently ignored the international will on these issues, and defied the conservation measures of the IWC itself, now be rewarded with part of what it seeks?

This trade-off also ignores the inherent problems with a resumption of coastal commercial whaling. Historically, coastal hunting has been the easiest whaling to undertake, most difficult to control and, consequently, it has seriously depleted many inshore stocks. It would take place in coastal waters where whales calve and nurse their young—waters that already present greater-than-normal environmental threats to whales, including bycatch, ship strikes, and entanglement in fishing gear.

As a factual matter, any deal that allows for coastal commercial whaling cannot legally limit whaling to Japan and its four coastal communities because the Convention assigns quotas to stocks, not countries. Hence, there is no logical or legal basis for the IWC to exclude other nations that might wish to start commercial hunting of whales along their coasts. A Reuters article dated April 22, 2009, reported that South Korea would consider resuming commercial whaling off its shores if the IWC approves a plan for Japan to conduct coastal whaling.

Given these fatal deficiencies—it should not come as a surprise that what has resulted is an ill-conceived plan that sacrifices hard won and important conservation victories for short-term cosmetic gains. This deal will not solve the IWC's problems—it will exacerbate them.

The question before us, in fact, is not whether there should be commercial whaling in the 21st century—rather the question is when and how will we, as a nation, initiate the measures needed to end such inhumane and unnecessary pursuits. The world looks to the United States for leadership and we must rise to this occasion and meet our responsibilities head-on. Phasing out all forms of commercial whaling



is the only way to ensure the survival of the world's whales. Those who suggest that fewer whales may be killed if this kind of compromise is reached with Japan could not be more ill-advised; this type of compromise squanders the historic opportunity we have to finally put an end to this brutal practice.

Now is the time for the United States to act decisively to set a course that leads to an end to commercial whaling by all nations. It is a difficult undertaking, one with significant diplomatic complexities. But our energy and resources will be better spent making inroads into closing down a bloody and outmoded industry rather than propping it up while dangerously renewing hopes for the resumption of full-scale commercial whaling. It took over a decade to pass the moratorium; the Hogarth proposal would take just one meeting to end it.

IWC 61 will be the last meeting with the U.S. Commissioner serving as IWC Chair—and we have nearly missed our opportunity to articulate a policy designed to recast the debate. The IWC needs to be transformed into a 21st century international whale conservation body, not to be dragged back to its 1946 origins. With the world's whales currently facing a myriad of anthropogenic threats, including climate change, habitat degradation, pollution, and overfishing of prey species—the only way forward is to end all commercial whaling.

In 2009, it is legally valid and justified by current environmental circumstances, for the IWC to place greater emphasis on conservation rather than maintaining a commercial whaling industry which is no longer internationally acceptable. In 1946, whaling was widely regarded as a legitimate industry, so it was appropriate to reach international agreement on its regulation. Even then, however, the Convention was unique in that it provided for—and indeed, gave equal emphasis to conservation—well before such thinking became the norm.

Pro-whalers will object undoubtedly to a significant conservation shift just as the anti-whalers objected when the IWC placed greater emphasis on commercial whaling decades ago; but neither can argue that the Commission is not fulfilling its legal mandate under the Convention. Times have changed and so too have our understanding, our compassion, and our respect for these magnificent marine mammals. International law such as conventions and treaties are not static either; by necessity they are interpreted in an evolutionary manner in order to remain relevant and credible. Contrary to what might have been the case in 1946, most of the world now believes that whaling should be reserved for very special circumstances “such as subsistence aboriginal whaling.

I agree with those who say the IWC is at a crossroads—but not because Japan is threatening to quit or Norway and Iceland threaten to escalate their whaling. In considering the proposed plan, the IWC is in danger of making itself irrelevant by authorizing and enabling a return to regulating commercial whaling rather than seeking its end. If the IWC votes to approve a package that includes even a limited resumption of coastal whaling—the body will be out of step and dramatically at odds with civil society.

I would only add that we can build on what Dr. Hogarth has started, by adopting a robust process that is truly forward thinking and one that embraces the widely held views that whales should no longer be slaughtered for commercial gain. The IWC needs to be modernized and strengthened and whales fully protected from all commercial hunting—anything less is unacceptable.

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**STATEMENT OF C. SCOTT BAKER, ASSOCIATE DIRECTOR,  
MARINE MAMMAL INSTITUTE; PROFESSOR, DEPARTMENT  
OF FISHERIES AND WILDLIFE, OREGON STATE UNIVERSITY**

Mr. BAKER. Thank you, Madam Chair, and members of the Subcommittee. As you are aware, a Small Working Group of commissioners was established last year to find a way forward on issues that have divided the IWC over the last two decades. At the heart of these negotiations was an effort to bring Japan's controversial scientific whaling programs under international control.

As part of the negotiations, Japan was seeking recognition of a small type coastal whaling program directed presumably at the O stock of Minke Whales found along the Pacific Coast of Japan. As a delegate to the scientific committee of the IWC since 1994, I will briefly address the five topics relevant to these negotiations and offer five recommendations on a way forward.

First, scientific whaling as an abuse of intent. Article VIII of the convention, which provides for scientific whaling, was crafted at a time when there was no viable alternative to lethal sampling. It was assumed that catches under scientific permit would be used to study a limited number of whales to inform the management of whaling. At best, it can be said that Japan's scientific whaling programs have produced useful, rather than necessary, information.

At worst, current scientific whaling is cruel, involving inefficient secondary killing methods that prolong time to death. Now, with the demonstrated power of nonlethal methods, it is apparent that Japan's scientific whaling programs are thinly disguised vehicles for sustaining their commercial market in whale products.

Second, scientific whaling is already a threat to Japan's coastal stocks. Two genetically distinct stocks of Minke Whales are found around Japan, the O stock, found primarily in the offshore Pacific waters, and the J stock, found primarily in the Sea of Japan. The O stock is considered to be relatively abundant and is the primary target of scientific whaling. The J stock was depleted by commercial whaling prior to the moratorium and is considered a protection stock by the IWC.

Japan has long maintained that the J stock is confined to the Sea of Japan, and therefore is not subject to the scientific whaling program in the western North Pacific. Recent evidence shows that this is not the case. The J stock also migrates along the Pacific Coast and is probably being taken in unsustainable numbers now by the current whaling program.

Third, the emergence of commercial bycatch whaling. A new form of unregulated whaling has emerged along the coast of Japan and Korea. I refer to this as commercial bycatch whaling. For most of the last decade, the combined reported bycatch of Minke Whales in both countries has been in excess of 200 whales a year. The financial incentives for this bycatch are substantial. An adult Minke Whale can reportedly sell for \$100,000 wholesale in Korea and presumably more in Japan.

Fourth, molecular monitoring of whale meat markets. Molecular genetic identification of whale meat products sold in commercial markets provides the only independent monitoring of scientific and bycatch whaling in Japan. Nearly 16 years of these market surveys have provided evidence that the true number of Minke Whales sold in trade is approximately twice the number reported to the IWC. Other protected species identified in our market survey include Humpback Whales, Fin Whales and the critically endangered Western Gray Whales.

Fifth, conservation science of living whales. Since the 1986 moratorium, the agenda of the IWC has been dominated by the demands of the pro whaling nations. If the IWC is going to be relevant in the future it must take up a more proactive response to the conservation science of living whales and the changing ecosystem. As an example, I note the government of Australia has recent funding of a Southern Ocean research partnership to investigate the role of living whales in the Antarctic ecosystem.

In conclusion, I offer the following thoughts on a way forward. First, negotiations should continue in an effort to bring scientific whaling under international control and to give the IWC a new di-

rection consistent with the pro-conservation views of the majority of member nations. Second, commercial bycatch whaling must also be brought under management control. The true level of this exploitation exceeds that of the scientific whaling in the North Pacific and is a critical threat to depleted and endangered coastal stocks.

Third, any negotiation with Japan over an exemption for small type coastal whaling should be predicated on the basis that catch quotas would be calculated under provisions of the revised management procedure, the preferred procedure by the scientific committee for the setting of conservative and sustainable catch limits. Fourth, all forms of whaling require robust and transparent scheme for observation and inspection, including independent molecular monitoring of whale meat markets. This is absent currently for the scientific whaling programs.

Finally, the U.S. and other pro-conservation nations must lead the way in making the IWC relevant to the 21st Century by promoting and funding conservation science of living whales on a global scale. Thank you for your time with this testimony.

[The prepared statement of Mr. Baker follows:]

**Statement of C. Scott Baker, Marine Mammal Institute,  
Oregon State University**

Madam Chairwoman and members of the Subcommittee, thank you for inviting me to testify today regarding the current status and future direction of the International Whaling Commission.

My name is Scott Baker and I am Associate Director of the Marine Mammal Institute and Professor in the Department of Fisheries and Wildlife at Oregon State University, as well as Adjunct Professor of Molecular Ecology and Evolution at the University of Auckland, New Zealand. I have been involved in the study of large whales for more than 30 years, using photo-identification and molecular genetics for the study of abundance, migration and population structure. In 1993, I also became involved in the monitoring of Illegal, Unreported or Unregulated (IUU) exploitation of whales, using molecular genetic methods for identification of protected species sold in "whale-meat" markets in Japan and the Republic of (South) Korea. I have served on the Scientific Committee of the International Whaling Commission since 1994, first as a delegate for New Zealand and, for last three years, as a delegate for the U.S. I am Chair of the Executive Committee of the South Pacific Whale Research Consortium, an organization of independent scientists and conservation managers committed to the non-lethal study of whales and dolphins throughout the South Pacific.

**Introduction**

In less than two weeks, I will attend the 61st Annual Meeting of the International Whaling Commission in Madeira, Portugal as a U.S. delegate to the Scientific Committee. Despite more than a year of intensive negotiation over the Future of the IWC, I expect the Commission will once again find itself in a deadlock between a small number of pro-whaling nations and a growing majority of non-whaling and pro-conservation nations.

As the Subcommittee is aware, a Small Working Group, under the direction of the Chair, U.S. Commissioner Bill Hogarth, was established at the 60th meeting of the IWC in Santiago, Chile, to find a way forward on issues that have divided the IWC over the last two decades, particularly Japan's expanding and open-ended programs of "scientific whaling" in the Antarctic and the North Pacific. Other outstanding issues include the lack of formal acceptance of the Revised Management Procedure (RMP), a robust method developed by the Scientific Committee for calculating sustainable catch limits for commercial whaling, and the suspended negotiation over the Revised Management Scheme (RMS), the wider framework of reporting, observation and enforcement required for the control of whaling.

The final report of the SWG is scheduled for public release on May 18, 2009, and so the current details of the negotiations were not available as I was preparing this testimony. However, recent media reports from Australia confirm what many in the Scientific Committee have suspected—the negotiations of the Small Working Group have themselves come to an impasse. At the heart of the negotiations was an effort

by the pro-conservation nations to bring Japan's scientific whaling programs under some kind of international control, and preferably, to halt entirely one or both programs. As part of the negotiations, I understand that Japan was seeking recognition of a "small-type" coastal whaling program, directed presumably at the "O" stock of North Pacific minke whale found along the Pacific coast of Japan. This stock of minke whales is also the primary target of the scientific whaling program in the North Pacific, as discussed further below. The IWC has not defined "coastal whaling" and so, for the purpose of my comments, I will assume Japan's proposal is for a fully mechanized whaling operation that does not involve a factory ship and is therefore limited to operating within approximately 60 nautical miles of a home port.

Although there had been the expectation that Japan would offer a serious reduction of its scientific catch as part of an agreement to exempt "coastal whaling" from the current moratorium, this has not been forthcoming. Instead, Japan has offered only a modest reduction in its self-established annual quota for Antarctic minke whales (from 985 to 650) and the endangered fin whales (from 50 to 24), and to forgo its proposed hunting of humpback whales in the Antarctic. Meanwhile, frustration with Japan's entrenched position seems to be increasing within the Commission, with the addition of Poland, Estonia and Lithuania to the current membership of 85 nations, strengthening a European Union vote against whaling. I also understand that the Government of Colombia and the Dominican Republic are giving serious consideration to joining the IWC, and will presumably support the pro-conservation direction of the increasingly influential "Buenos Aires" group of Central and South American countries.

On the expectation that negotiations will continue over the future of the IWC, I will address three topics relevant to the responsibilities of the Scientific Committee: 1) the legitimacy of scientific whaling 2) the threats to Japan's coastal stocks from scientific whaling in the North Pacific (JARPNII) and "small-type" coastal whaling; and, 3) the emergence of an unregulated form of commercial "bycatch whaling" along the coasts of Japan and Korea and the genetic identification of products sold in commercial markets. I will then consider the role of science in seeking a way forward on: 1) scientific whaling as an "abuse of intent"; 2) the application of the RMP for setting quotas in coastal whaling; 3) the role of forensic genetics and market surveys in observation and inspection; and finally, 4) the conservation science of whales—a new direction for the IWC. The views I present in this testimony are based on my professional expertise but do not necessarily represent the position or views of my home institutions, Oregon State University.

#### **Scientific whaling—a cover for commercial whaling**

The general facts of scientific whaling are well known—following the 1986 moratorium on commercial whaling, Japan, Iceland and Norway initiated scientific whaling programs of limited or dubious scientific value. Article VIII of the 1946 International Convention for the Regulation of Whaling (ICRW) allows any member nation of the IWC to award itself a Special Permit to kill whales for the purpose of scientific research. While the results of such research must be reported to the IWC, the Commission is powerless to amend or rescind this self-established quota. Norway ended its scientific whaling program in 1993 and continues commercial whaling under an objection to the moratorium. Iceland withdrew from the IWC and later rejoined with an objection allowing it to initiate both scientific and commercial whaling, although, to dates, these have been of a relatively limited scale.

The Japanese Whale Research programs conducted under Special Permit, referred to as JARPA in the Antarctic and as JARPN in the North Pacific, have been ongoing since 1988 and 1994, respectively. JARPA focused initially on Antarctic minke whales in the Southern Ocean and JARPN focused on the "O" stock of North Pacific minke whales in the western North Pacific. The two programs are now in a second phase with an accompanying expansion to three species for JARPAII, the Antarctic minke, the fin and the humpback whale, and four species for JARPNII, the North Pacific minke, the pelagic Bryde's, the sei and the sperm whale. The self-established quotas of both programs have also increased, although the JARPAII program has been notably unsuccessful in achieving these targets, particularly for fin whales, a species listed as endangered by the IUCN. The reported annual takes of each program are shown in Table 1.

Japan's prolonged and open-ended scientific whaling program has provoked intense discord both within and outside of the IWC. Article VIII, which provides for scientific whaling, was crafted at a time when there was no viable alternative to lethal sampling. It was assumed that catches under scientific permit would be used to study limited numbers of whales to inform the management of whale stocks. At best, it can be said that past scientific whaling program have produced "useful"

rather than necessary information. Now, with the demonstrated power of non-lethal methods for describing whale population parameters, many consider that existing scientific whaling programs are simply vehicles for sustaining a commercial market. The second phase of scientific hunting by Japan in the Antarctic (JARPAII) and in the North Pacific (JARPNI) has abandoned even the pretence of research for the purposes of whale management and, instead, is focused on issues of little or no direct relevance to the management of whaling by the IWC.

The primary criticisms of Japan's scientific whaling can be summarized as;

- The overall quality of scientific research in these programs is poor. A 2008 review of the 18-year JARPA program by the IWC concluded that the major objectives had not been achieved, despite nearly two decades of effort by the Institute for Cetacean Research, Tokyo, a large and well-funded research laboratory supported by the sale of the scientific whaling products. The poor quality of the scientific whaling programs is further reflected in the very small number of resulting scientific publications in international peer-reviewed journals.
- The primary scientific objectives of the programs are not required for the effective management of whaling under the IWC's management procedure, the RMP. The second phases of scientific whaling, JARPAII and JARPNI, are now directed at establishing a spurious link between declining fisheries and the recovery of some whale stocks, to justify "culling" of whales under the guise of ecosystem management.
- The ostensible objectives of the programs would be more efficiently accomplished through well-established non-lethal methods, including photo-identification, genetic analysis of skin biopsy samples and satellite telemetry.
- The commercial sale of products from scientific whaling creates a conflict of interest for the scientists of the Institute for Cetacean Research, the quasi-governmental institute supported in part by the sale of whale-meat products. These scientists attend the IWC as delegates for Japan, advocating on behalf of their own scientific whaling programs and biasing management advice provided by results of the programs. The magnitude of this conflict of interest is substantial. In 2000, the ICR reportedly had an annual operating budget of U.S. \$73 million. Following the expansion of both JARPAII and JARPNI, the annual operating budget has increased to about U.S. \$172 million in 2009.
- The killing of whales for science raises animal welfare issues, as well as conservation concerns. Current scientific whaling practices are cruel, often involving inefficient secondary killing methods and a prolonged period of time to death even for the relatively small Antarctic minke whales. Japan's scientific whaling program has never been subject to review for ethical animal experimentation protocols by an appropriate independent body, as required by law in many countries, including Japan.

#### **JARPNI and "small-type" coastal whaling—threats to the depleted J stock minke whales**

Stocks of whales along the coast of Japan and Korea are among the most depleted in the world as a result of commercial hunting prior to the moratorium, and continuing high levels of IUU exploitation (see below), including scientific whaling and commercial "bycatch whaling". The first phase of Japanese scientific whaling in the North Pacific, JARPNI, was restricted to minke whales and hunting was concentrated in the offshore waters of the western North Pacific. The second phase, JARPNI, has increased the quota of North Pacific (NP) minke whales, shifted the distribution of the hunt inshore, and added Bryde's, sei and sperm whales to the list of targeted species. Any proposal for establishing a "small-type" coastal whaling program must consider the impact of this ongoing scientific whaling, and threats to depleted stocks, particularly the so-called "J" stock of NP minke whales.

For management purposes, NP minke whales are considered to comprise at least two genetically distinct stocks around Japan: the O stock, found in offshore Pacific waters, and the J stock, found primarily in the East Sea/Sea of Japan and, perhaps, in near-shore waters along the Pacific coast. The O stock is considered to be relatively abundant but the J stock was depleted as the result of intense commercial exploitation by the Korea and Japan between 1962 and 1986. During this 24-year period, 13,734 animals were taken from the J stock. In 1983, the Scientific Committee of the IWC recommended that the J stock should be classified as a "protection stock". This classification came into effect in 1986, coinciding with the global moratorium on commercial whaling. JARPNI focused initially on O stock minke whales in pelagic waters of the western North Pacific. Genetic analysis of samples in the early years of this program (1994-1998) suggested that more than 95% of whales killed in these offshore waters probably originated from the O stock. Under JARPNI, the distribution of whaling effort has moved closer to the coast and the

stock identity of the minke whales killed in these coastal waters has now come into dispute.

Japan's proposal to expand "small-type" coastal whaling is likely to increase pressure on the depleted J stock minke whales. Japan has long maintained that the J stock is confined to the Sea of Japan/East Sea and is not subject to the impact of scientific whaling in the western North Pacific. New evidence, including genetic analyses of whale-meat products from Japanese and Korea markets (see below) and results from the JARPNI itself, has raised questions about the distribution and structure of stocks in Japan's coastal waters. Although Japanese scientists now concede that "J" stock whales are found along the Pacific coast, they insist that the distribution is restricted to within 10 nautical miles of the coastline. The biological plausibility of such an arbitrary boundary between two migratory stocks is highly questionable and Japan has yet to present its evidence for this claim to the Scientific Committee. Consequently, the degree of mixing between the depleted "J" stock and the more abundant "O" stock in the waters off the east coast of Japan is unclear. Independent analysis of genetic data from JARPNI and from the Japanese and Korean bycatch should be a prerequisite for any management advice on a coastal whaling program.

### **Commercial "bycatch whaling" and molecular monitoring of whale-meat markets**

Any negotiation over limits to scientific whaling or quotas for "small-type" coastal whaling must take into account a currently unrecognized and unregulated form of whaling that has emerged in the coastal waters of Japan and Korea—commercial "bycatch whaling". In Japan, the entanglement of whales in nets dates back to at least the 17th century, when it was the basis for an early form of commercial whaling. The history of "incidental" bycatch of whales is less well documented, but "official records" have been included in Japan's national progress reports to the IWC since 1979. These records show that most whales are killed in coastal set nets or "trap nets"; these are fixed fishing structures with a "guide" of net up to 1 km in length, extending from shore to offshore and leading to a large "box" to retain the trapped fish (or whales). In Japan alone, there are about 20,000 trap nets operating in coastal waters. The history of "bycatch" whaling is less well documented in Korea, but the netting of whales is depicted in Neolithic petroglyphs near today's whaling center, the coastal city of Ulsan.

Although occasional entanglements and deaths of large whales are included in the annual progress reports submitted by other member nations of the IWC, only Japan and Korea report large numbers of these "incidental" takes year after year. For most of the last decade, the combined reported incidental takes of North Pacific minke whales have been in excess of 200 whales/year (see Table 1). Given the reported distribution of bycatch in coastal water of Japan and Korea, it is likely that the majority of minke whales killed belong to the J stock. Other species of large whales reported or detected in our market surveys include humpback whales, fin whales, Bryde's whales and the critically endangered western gray whales. The entanglement and death of western gray whales is of particular concern given the extremely small size of this critically endangered population (estimated to number only 100 individuals). Perhaps not coincidentally, Japan and Korea are the only two member nations that allow the commercial sale of whales killed as bycatch, and have thriving commercial markets for "whale-meat" or other whale products. In Japan, these products enter into the commercial supply chain that supports the nation-wide distribution of whale and dolphin products, including those from the scientific whaling program. In Korea, there is no program of commercial or scientific whaling. Instead, the sale of bycatch alone supports a lucrative trade in whale-meat at markets in the cities of Busan, Ulsan and Pohang, where the wholesale price of an adult minke whale can reportedly reach US\$ 100,000. Given these substantial financial incentives, it is not surprising that there has been no effort by either Japan or Korea to mitigate the incidents of large-whale bycatch.

Other than the official progress reports submitted to the IWC by Japan and Korea, the only independent monitoring of this commercial "bycatch" whaling has been through our molecular surveys of whale-meat markets. Unlike tradition efforts to document illegal, unreported or unregulated (IUU) exploitation, market surveys and genetic identification of whale-meat products are not dependent on the veracity of source-point reporting by fisherman (or whalers). Instead, these surveys, aided by the tools of forensic genetics, provide a measure of the end-point of the whale-meat supply chain, including products originating from documented sources, such as scientific whaling and reported bycatch, and undocumented sources, such as directed illegal hunting. Nearly 15 years of these market surveys in both countries have provided direct evidence that this commercial "bycatch whaling" is even more extensive

than represented in official IWC progress reports. Like scientific whaling, bycatch whaling also provides a cover for some level of direct illegal hunting. Using DNA barcodes to identify more than 250 whale-meat products from NP minke whales in Japan, we estimated that more than 46% of these originate from the J stock. Such a large proportion of J stock on the market is not consistent with the low levels of reported bycatch prior to 2001 (Table 1). Instead, the true bycatch and other sources of IUU exploitation of J stock have probably numbered more than 100 whales/year since the early to mid 1990s. Japanese scientist reached a similar conclusion about the true scale of bycatch during the 1980s based on extrapolations from set-net effort. In Korea, we used DNA profiling or fingerprinting of whale-meat products to estimate that more than 820 minke whales were killed during a five-year period from 1999-2004. This estimate is nearly twice the officially reported “bycatch” of 440 whales. The implication of large-scale illegal whaling in Korean water was subsequently confirmed—in January 2008, Korean police announced an investigation into organized illegal whaling in the port town of Ulsan, seizing 50 tonnes of minke whale meat and questioning more than 70 people, including the operators of 46 whale meat restaurants.

### **Is there a way forward?**

Having, I hope, addressed the primary scientific issues underlying current negotiations over Japan’s scientific whaling, small-type coastal whaling and the related issue of commercial bycatch whaling, I would like to conclude with thoughts on a way forward from a scientific perspective.

#### *Scientific whaling—and “abuse of intent”*

The consensus is clear within the scientific community at large in rejecting the need for lethal sampling in providing management advice to the IWC. Consequently, I support negotiations to bring these programs under greater international control, or to end them entirely, but I am skeptical of Japan’s sincerity in such negotiations given that the self-established quota for scientific whaling is larger than they would likely be granted under the RMP (except perhaps for Antarctic minke whales).

Modification of Article VIII itself would require a renegotiation of the 1946 ICRW. As an alternative, several NGOs have prepared a case that the scale of Japan’s scientific whaling in the Southern Ocean Whale Sanctuary and in the North Pacific, represents an “abuse of intent”. On the basis of the criticisms I have outlined, there is a compelling argument that, in pursuing the JARPAII and JARPNII programs, Japan is in significant breach of its international treaty obligations under the UN Convention on the Law of the Sea (UNCLOS). In such circumstances, parties to UNCLOS can individually or in combination with other parties seek compulsory resolution of the dispute with the other party by the International Tribunal for the Law of the Sea (ITLOS). Although it is widely agreed that Japan’s program is only a thinly disguised cover for a continued commercial whaling industry, it is not clear that the language of Article VIII of the ICRW allows for interpretation of intent at the level sufficient to support a decisive judgment against Japan.

An effective if less dramatic response to scientific whaling is the process of scientific peer review. Based on my experience in the Scientific Committee, it is my view that the quality of science from these programs has been poor or of marginal value. Given the small number of publications in international journals, this seems also to be the opinion of the anonymous peer-review process. Further, manuscripts submitted to international journals must meet appropriate standards of Ethical Animal Experimentation. As editor in chief of the *Journal of Heredity*, a publication of the American Genetics Association, I am not satisfied that this is the case with JARPAII or JARPNII, and will not publish articles arising primarily from these program without evidence of a proper review. I am aware that editors of other international peer-reviewed journals hold a similar opinion.

#### *An RMP for “small-type” coastal whaling and “bycatch whaling”*

Negotiations over an exemption for “small-type” coastal whaling must include an agreement for setting catch quotas for the targeted O stock and setting limits for takes of the non-targeted J stock. However, it is not clear whether these limits will be set through some form of political negotiations or through the accepted scientific guidelines of the RMP. The Chair’s report of the Rome negotiations states that,

“An interim quota for “O” stock common minke whales in Japanese coastal waters for a five-year period would be implemented, having regard to the unique circumstances that exist for four Japanese coastal communities. This whaling would be managed, consistent with the advice of the Scientific Committee, under a Schedule amendment that would last for 5 years. The Scientific Committee would provide interim advice concerning the total removals of O and J stock common minke whales.”

A request for such interim advice, based on the disputed data now available from Japanese scientists, would, in my view, be a significant step backwards from the accepted scientific method of the RMP for setting conservative and sustainable catches limits.

Application of the RMP to Japan's proposal for coastal whaling would need to take special account of the high levels of "bycatch whaling" and the potential for a mixing of O and J stock in coastal waters. As a way forward in negotiations over a management procedure, I would suggest the following modification to the conventional "single-stock" application of the RMP:

- Review and revise if necessary existing estimates of abundance for J stock in Japanese waters and set a catch limit for this stock (Catch J), using the RMP's Catch Limit Algorithm (CLA).
- Review and revise if necessary existing estimates of abundance for the O stock and set a catch limit for this stock (Catch O), using the RMP's Catch Limit Algorithm (CLA). As the RMP catch limit is understood to cover both direct and indirect catches, limits for both O and J stocks would take into account bycatch.
- Undertake "real-time" DNA profiling of whales taken in coastal whaling and bycatch to genetically assign each whale taken to either the O or the J stock. Such "real-time" stock assignment methods are now routinely applied in the management of "mixed-stock" fisheries of salmon along the U.S. west coast.
- Halt the annual season of coastal whaling, or close fisheries involved in bycatch, when the limits of either Catch J or Catch O are reached (i.e., whichever is reached first). This is similar to the application of the Potential Biological Removals (PBR) for bycatch of cetaceans in U.S. fisheries.

Adherence to the principles of the RMP in negotiations with Japan is also important as precedence for responding to requests from other nations seeking coastal whaling. In Korea, the major daily newspaper *Dong-A Ilbo* (23 April, 2009) quoted an official of the Food, Agriculture, Forestry and Fisheries Ministry as stating, "Korea bans whaling both for research and whaling in coastal waters, but we'll revise regulations to lift the ban on the two types of whaling. We'll report our stance to the International Whaling Commission in June." I expect that other nations will follow in declaring an interest in "coastal whaling", perhaps with incentives from Japanese fisheries aide.

#### *Observation and inspection of coastal whaling and "bycatch whaling"*

The RMP was to be the scientific component of a wider scheme, the Revised Management Scheme (RMS), which was to include management elements such as observation, inspection and enforcement. Despite over 14 years of discussions, however, the terms of the RMS have not been agreed by the Commission and negotiations are currently suspended. As a consequence, I assume that the terms for observation and inspection of any coastal whaling program must be part of any ongoing negotiations.

The technology for a verifiable system of observation and inspection of whaling has progressed rapidly in the last decade, while agreement about how to implement these methods lags far behind. Molecular monitoring through forensic genetics now allows the tracking of each product derived from an individual whale, regardless of its source. If genetic samples are collected systematically as part of a regulated hunt or bycatch, individual identification can be used to track the origins of a product in trade and verify its legitimacy. An inclusive register of DNA profiles from regulated hunts can be used to evaluate the legitimacy of any product found in trade. The DNA profiles are stored on an electronic database, forming a searchable register of individuals intended for the market. The DNA profile of a market product can then be compared to the database; a market product that matches an existing profile would be legitimate, while a product that did not have a match in the register would be illegitimate or illegal. For a fully transparent system of track-ability/traceability, all whale-meat products could be labeled with an electronic barcode linked to the DNA register and accessible through the Internet. Both Japan and Norway have committed to the development of national DNA registers, but they have not committed to providing this information to a central independent, international authority such as the IWC Secretariat. Without such a commitment, the transparency of the registry and its use in observation and inspection cannot be assured.

Independent molecular surveys of whale-meat markets are also critical to a truly transparent and comprehensive system or scheme for Observation and Inspection. The intent of such surveys would be to provide improved information on total catches over time for inclusion in the RMP. The surveys would not be used for prosecution, as this is a domestic issue. The power of market surveys for detect and estimating IUU whaling would be greatly enhanced by access to the DNA registers from



the regulated hunt. Unfortunately, both Japan and Norway have formally objected to the implementation of market surveys as a component of any scheme for monitoring of whaling, claiming that it outside the “competency” of the IWC. Korea has made efforts to improve the collection of biological samples from bycaught whales, but, to my knowledge, has not committed to developing a formal DNA register.

*Conservation science of living whales—a new direction for the IWC*

The agenda of the Scientific Committee in recent years has been dominated by the demands of the pro-whaling nations, including the divisive reviews of Japan’s scientific whaling programs and proposal for the expansions of these programs. By comparison, much less attention has been given to assessing the status of depleted stocks, some of which have shown only slow rates of increase, or to understanding the ecological role of those stocks that have shown strong signs of recovery. If the IWC is going to be relevant in the future, it must move beyond the reactionary responses to the demands of whaling nations, and take up a more pro-active response to the conservation science of living whales and the changing ecosystem. This will require the commitment of member nations to new programs of research directed primarily at conservation science. I note as examples several recent large-scale studies of living whales:

- SPLASH—the Structure of Populations, Levels of Abundance, and Status of Humpback in the North Pacific, a three-year multi-national collaboration to individually identify and collect genetic samples from humpback whales in all known breeding and feeding grounds of the North Pacific;
- SPWRC—the South Pacific Whale Research Consortium’s Comprehensive Assessment of Humpback Whales in the South Pacific, a 10-year coordinated study among independent scientists to assess abundance and trends in the slowly recovering breeding stocks of humpback whales in the South Pacific; and
- SORP—the Southern Ocean Research Partnership, under direction of the newly formed Australian Marine Mammal Center, with a 5-year budget of AUS\$ 32 million (approximately US\$ 26 million) to investigate the role of living whales in the Antarctic ecosystem.

These programs, together with several others that are now complete, have successfully described the abundance and population structure of humpback whales on an oceanic scale using only non-lethal methods, and some have already resulted in a higher quality of science than Japan’s scientific whaling program, at a fraction of the costs.

### Conclusions

1. Japan’s scientific whaling has polarized the IWC and negotiations should continue in an effort to bring these programs under international control, or to end them entirely.
  2. Commercial “bycatch whaling” and other IUU whaling by Japan and Korea must also be brought under management control, as the true level of this exploitation likely exceeds that of scientific whaling in the North Pacific and is not sustainable.
  3. Any negotiation over an exemption for “small-type” coastal whaling in Japan must account for catches taken as “bycatch whaling” and should consider, first, the accept Revised Management Procedure as a basis for setting catch quotas.
  4. All forms of whaling, including the current scientific whaling, require an improved scheme for transparent observation and inspection, including molecular monitoring of whale-meat markets with oversight by an independent, third-party organization.
  5. The U.S. and other pro-conservation member nations of the IWC should lead the way in promoting and funding conservation science of living whales, with a focus on understanding the true role of these species in the marine ecosystem
- Thank you for your time with this testimony.

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**Table 1:** Summary of scientific whaling catches by Japan in the Southern Hemisphere (SH) and the North Pacific (NP) since the 1986 moratorium, and reported coastal 'bycatch' of North Pacific minke whales by Japan and Korea, as reported to the IWC.

Year	Scientific whaling Antarctic			Scientific whaling North Pacific				Bycatch	Bycatch	Infractions	TOTAL
	Japan	Japan	Japan	Japan	Japan	Japan	Japan	Japan	Korea	Korea	
	SH fin	humpback	SH minke	NP minke	NP Brydes	NP sei	NP sperm	NP minke	NP minke	NP minke	
1988			273								273
1989			241								241
1990			330								330
1991			327					5			332
1992			288					8			296
1993			330								330
1994			330	21							351
1995			330	100							430
1996			440	77				27	129		673
1997			440	100				27	78		645
1998			438	100				24	45		607
1999			389	100	1			19	56		565
2000			439	40	43		5	29	77	2	635
2001			440	100	50		8	89	160	1	848
2002			440	150	50	39	5	116	83	1	884
2003			441	150	50	50	10	137	87	5	930
2004			443	160	51	100	3	121	69	8	955
2005			441	222	50	100	5	122	107	3	1,050
2006	10		856	197	51	101	6	125	80	2	1,428
2007	3 deferred		508	208	50	100	3	156	80	14	1,122
2008	0 deferred		551	169	50	100	2	n.a.	n.a.	n.a.	872
2009	1 deferred		679	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	680
<b>Totals</b>	<b>14</b>	<b>0</b>	<b>9,394</b>	<b>1,894</b>	<b>446</b>	<b>590</b>	<b>47</b>	<b>992</b>	<b>1,051</b>	<b>36</b>	<b>14,477</b>

NB. Antarctic season is by year on January 1, e.g., 2004/05 catches included in 2005 figures.

n.a. not available until SC61 meeting

#### Sources

1986-2000, Annual reports of the IWC; 2001-2007, National 'Progress Reports' to the IWC

Catches by Republic of Korea since 2000 reported as 'infractions' in addition to reported bycatch

Bycatch summaries are only for NP minke whales, the most commonly reported species of baleen whale. Other species, including humpback, fin and western gray whales are also reported in lower numbers.

2008, 2009 Catches by Japanese Scientific Whaling are from press releases by Japan Fisheries Agency and or Institute of Cetacean Research

Ms. BORDALLO. Thank you very much, Dr. Baker. I want to thank all of the witnesses. Now, I have a series of questions and the first ones will be for you, Dr. Hogarth. I would like to start off by asking you a series of yes or no questions, and I hope that you will answer in that format. Does the IWC scientific committee believe that when Japan kills 600 plus whales under the guise of scientific whaling that legitimate scientific data is being collected?

Mr. HOGARTH. No, ma'am.

Ms. BORDALLO. All right. Would the proposal be negotiated by the Small Working Group allow Japan to continue scientific whaling even though it is scientifically indefensible?

Mr. HOGARTH. [PAUSE] That is a very difficult question to answer yes or no at this point because there is no proposal.

Ms. BORDALLO. So what do you say to that? A yes or a no?

Mr. HOGARTH. I cannot answer yes or no because there is no proposal.

Ms. BORDALLO. You cannot answer. All right. Well, I think it should be no, but would the United States agree to a proposal that allowed this?

Mr. HOGARTH. That will be determined when a complete proposal is put together. It cannot be answered yes or no because it is all based on a complete package of what is best for the whales overall.

Ms. BORDALLO. Could Japan pledge to reduce the number of whales it kills but continue lethal take under the scientific whaling provisions of the convention?

Mr. HOGARTH. [PAUSE] Yes.

Ms. BORDALLO. Isn't an amendment to the convention needed to create a binding mechanism to achieve reductions or end lethal scientific whaling?

Mr. HOGARTH. To be binding, yes.

Ms. BORDALLO. So under the terms just considered by the Small Working Group, if there were some sort of package agreed to, would it be enforceable?

Mr. HOGARTH. It depends on the package. It cannot be answered yes or no because part of it is the monitoring and control package that would be part of it.

Ms. BORDALLO. Well, we feel the answer would be no. It would be impossible to enforce. The next question, does the United States support the moratorium on commercial whaling?

Mr. HOGARTH. Yes.

Ms. BORDALLO. Does that mean that the Administration opposes commercial whaling in all its forms?

Mr. HOGARTH. Yes.

Ms. BORDALLO. Do you believe that the United States' agreement to small type coastal whaling where the meat is sold contradicts the long held U.S. position to maintain the moratorium on commercial whaling?

Mr. HOGARTH. [PAUSE] You are asking questions that are very difficult to answer with a simple yes or no. If you strictly interpreted, yes.

Ms. BORDALLO. All right. It does undermine the moratorium.

Mr. HOGARTH. Yes.

Ms. BORDALLO. So will the Administration support Japanese coastal whaling if the intent by the Japanese, or any other nation, is to sell the catch?

Mr. HOGARTH. That will be dependent—I cannot answer that because it is not on the table yet. It will be up to the new Administration to make its decision.

Ms. BORDALLO. Well, we feel the answer should be no. Will the United States support Japanese coastal whaling if there is a possibility of killing whales that are considered a protection stock by the scientific committee of the IWC?

Mr. HOGARTH. No.

Ms. BORDALLO. Could other countries engage in small type coastal whaling if this category were established?

Mr. HOGARTH. [PAUSE] Yes, if they went through the same process and collected the same data.

Ms. BORDALLO. Didn't a South Korean newspaper recently report that the Seoul government would then pursue small type coastal whaling?

Mr. HOGARTH. Yes, but it was later contradicted by another Korean person.

Ms. BORDALLO. If that is the case, then can we really have any assurance that the goal of reducing the number of whales killed will be achieved?

Mr. HOGARTH. [PAUSE] Madam Chair, it really depends on the package that is put together and how it is evaluated. I mean, I would love to answer your questions yes or no, but it really doesn't do justice to answer yes or no to some of them because it is much more complex and involved than that. I am trying to work with you, I honestly am, but it is very difficult to answer yes, no.

Ms. BORDALLO. Well, I appreciate your answers, Dr. Hogarth. I have some questions now for Kitty Block. Last month, 32 pro whaling IWC member nations met in Tokyo. They agreed that the Small Working Group process should have their backing but they declared whales should not be placed in a special category of animals exempt from sustainable use, they rejected the creation of whale sanctuaries, so how can there be any hope that once Japan gets its coastal whaling, which would be a binding decision enshrined in the schedule, that there would be any hope of getting the sanctuary, which would require the current three-fourths approval?

Ms. BLOCK. I think that is a very good point. It is two things. One, would they agree to a sanctuary? They have voted against the sanctuaries for as long as I have been involved in the IWC. The question is, though, would they honor the sanctuary, and that is the real problem. They continue to whale in the Southern Ocean sanctuary and that has never slowed. They also took objections to the kinds of whales that they could kill in the Southern Ocean sanctuary. So it is a two point process. Would they block it? Probably. Would they honor it if it passed? Not likely.

Ms. BORDALLO. A follow-up question. Why would our delegation to the IWC agree to a package when you know there is no hope for a sanctuary, a primary negotiating item?

Ms. BLOCK. I think that there is a concern about the numbers of whales killed each year. I don't think we all disagree on that, but we disagree on the approach. The environmental animal protection community doesn't believe that it is worth sacrificing what we already have won, the moratorium, in exchange for something that is not binding, and not enforceable and not forward thinking, really stepping backwards than moving forward.

Ms. BORDALLO. Even if a negotiated package would curtail so-called scientific whaling, would Japan and other nations be bound by it?

Ms. BLOCK. Absolutely not. The convention itself gives the absolute right to conduct scientific whaling, and unless that right is removed from the convention, any other promises to reduce the numbers of whales they kill are absolutely not binding.

Ms. BORDALLO. All right. Thank you very much. I would like to welcome the acting Ranking Member, Mr. Young, to our Subcommittee.

Mr. YOUNG. Thank you, Madam Chairman. Appropriate time, I have a statement to make.

Ms. BORDALLO. Absolutely. I just have a few more questions and then I will recognize you. Dr. Baker, in your testimony you refer

to commercial bycatch whaling. What do you mean by this phrase and why is it relevant to negotiations concerning Japan's proposal for small type coastal whaling?

Mr. BAKER. There are only two nations that are members of the IWC that report such large numbers of large whales entangled in coastal nets, Japan and Korea. These are also the two countries that sustain commercial whale meat markets and allow products taken by incidental bycatch to be sold in these markets at quite a high profit. The problem is this provides an incentive for this bycatch and commercializes it, so there has long been a suspicion that the number of whales taken is probably even in excess of the large numbers reported. The fact that it enters into the commercial market makes it a form of commercial whaling.

Ms. BORDALLO. I have another question. How can one detect illegal, unreported or unregulated whaling using molecular identification of whale meat products sold in commercial markets?

Mr. BAKER. Well, we have developed a number of molecular methods that allow us to identify species and individuals. I mean, much as you see on crime scene TV programs. These methods are available not only for human forensic genetics, but for wildlife forensic genetics, so if Japan accurately reported on the information on the whales they killed it would be a simple matter of going to the market, collecting a sample and seeing if all the samples that you found on the market in fact match the whales that they reported in their official reports.

Currently it seems that is not the case. Although Japan doesn't provide us enough information to make absolute distinctions, it allows us enough information to estimate the number of whales that are not being reported.

Ms. BORDALLO. This process has been used, is that correct?

Mr. BAKER. Yes. It has been used fairly routinely now since 1994, at least for species identification, and more recently, for actual individual identification just as you would a crime scene suspect.

Ms. BORDALLO. Very good. Thank you. I would like now to recognize the Ranking Member, Mr. Young, for any questions or statements he has.

**STATEMENT OF THE HONORABLE DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA**

Mr. YOUNG. Madam Chairman, I have a couple of questions but first I would like to thank you for having these hearings. As you know, I am one of the Congressmen that has constituents who rely on marine mammals, including whales, for their culture and subsistence needs. On this issue it is very personal to me and my Alaskan constituents. Alaskan Eskimos, primarily, are in a unique position, both within International Whaling Commission and within the Federal laws dealing with the marine mammal conservation and management, and both Federal law and IWC native culture and nutritional needs are recognized and Alaska Natives' right to take whales is recognized.

We have had a good record, they have had a good record, of sustaining these species. They have done a great job. Within the IWC there are seven countries who are authorized to take a limited number of whales and one of them, of course, is the United States,

primarily Alaska. The IWC generally authorizes quotas of five-year blocks and renews these quotas at appropriate annual meetings at the IWC. Unfortunately, the IWC has become a very polarized organization.

Many countries that have nothing to do with whales belong to the IWC. To quote a recent congressional research service report, "The International Whaling Commission now has 85 members divided almost evenly between whaling and non whaling countries." This situation leads to continuous votes and accusations that decisions are not based on science but on politics, and, in particular, whether or not a country favors whaling. This polarization within the IWC has led to the denial of the quota of the Alaskan Eskimo Whaling Commission on more than one occasion.

This action has nothing to do with the needs of the Alaskan people or their rights to harvest marine mammals, a right which has been demonstrated and recognized. The denial of the quota is because some countries have used my constituents as political hostages. It is unacceptable that the subsistence needs of my people can be put on hold because of political debate over the future IWC. I, very frankly, think the IWC is broken because the members that belong to the organization really don't have the interest of whales in their best belief for what is sustainable for the species in which we harvest.

Groups that oppose whaling have forced Alaska to do more research on the Bowhead Whale than has been done about any other species. This is done by the Alaskan Natives. Every time the Alaskan Natives think they have satisfied all their critics, someone comes up with a new hurdle for them to justify their needs. Despite the harvest, the Bowhead Whale population has continued to increase and is at its highest levels at the end of the commercial whaling season.

The Alaskan Natives have met every challenge the IWC has put in front of them to justify their harvest, and yet, they are still used as political hostages. It isn't right, and it ought never to occur again. Madam Chairman, as I have said before, I think it is crucially important to understand the uniqueness and the recognition of the Alaskan Natives' right to harvest whales, and they have done the research as they increase their numbers.

[The prepared statement of Mr. Young follows:]

**Statement of The Honorable Don Young, the Representative in Congress  
for the State of Alaska**

Madam Chair, I appreciate you holding this hearing today.

As you know, my constituents rely on marine mammals—including whales—for their cultural and subsistence needs so this issue has a very personal meaning for me. Alaska Natives are in a unique position both within the International Whaling Commission (IWC) and within Federal laws dealing with marine mammal conservation and management. In both Federal law and the IWC, Native cultural and nutritional needs are recognized and Alaska Natives' right to take whales is recognized.

Alaska has a long and enviable track record of sustainably using our natural resources including our fisheries and our marine mammals. Natives in Alaska have harvested marine mammals for their cultural and subsistence needs for centuries and have been good stewards of those resources.

Within the IWC, there are seven countries which are authorized to take a limited number of whales and whale species and the United States is one of those seven. All of these nations have demonstrated a cultural and nutritional need by their citizens or the IWC would not have allowed the harvest.

The IWC has generally authorized quotas in five-year blocks and renewed these quotas at the appropriate annual meeting of the IWC. Unfortunately, the IWC has become a very polarized organization. To quote a recent Congressional Research Service report, "The International Whaling Commission...now has 85 members divided almost evenly between whaling and non-whaling countries. This situation leads to contentious votes and accusations that decisions are not based on science, but on politics, in particular, whether or not a country favors whaling."

This polarization within the IWC has led to the denial of the quota for the Alaska Eskimo Whaling Commission on more than one occasion. This action had nothing to do with the needs of the Alaska people or of their right to harvest marine mammals—a right which has been demonstrated and recognized. The denial of the quota was because some countries have used my constituents as political hostages. It is unacceptable that the subsistence needs of Native people can be put on hold because of a political debate over the future of the IWC.

I am not the only one who thinks the IWC is broken and I look forward to hearing from our witnesses about how they think the IWC can be made to function as a respected international marine mammal conservation and management organization. But let me be clear—any recommendations that do not take into account the recognized cultural and subsistence needs of Native people does not resolve the problem.

Groups opposed to whaling have forced the Alaskans to do more research on the bowhead whale than has been done on just about any other whale species. Every time the Alaskans think they have satisfied all of their critics, someone comes up with a new hurdle for them to justify their needs. Despite the harvest, the bowhead whale population has continued to increase and is at its highest level since the end of the commercial whaling industry.

The Alaskan Natives have met every challenge that the IWC put in front of them to justify their harvest and yet they are still used as political hostages. It just isn't right. Any solution to fix the IWC has to make sure that Native subsistence harvests are permanently protected.

Thank you, Madam Chair.

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Mr. YOUNG. Now, Madam Chairman, with your discretion, I would like to ask about three questions. Dr. Hogarth, what has been the U.S. position on aboriginal subsistence whaling quotas during the time you have been the U.S. Commissioner, and is that position any different from under the past U.S. commissioners?

Mr. HOGARTH. The U.S. has always supported, to my recollection, the aboriginal subsistence whaling. We have done all the science that has been asked, and we take it to the scientific committee at the IWC and follow their advice. I hope I don't see any change, and this Administration seems to be the same—to follow the IWC for aboriginals.

Mr. YOUNG. Well, again, doctor, does the U.S. support both the Alaskan Eskimo Whaling Commission's and the Makah Tribe's subsistence quotas?

Mr. HOGARTH. Well, the aboriginal limit for the Makah Tribe is not set by quota by the IWC. The Makah Tribe right now does not have a subsistence quota. It cannot hunt for whales until there is a quota appropriated under the Marine Mammal Protection Act and the Whaling Convention Act. There is a quota that is awarded by the IWC to which the U.S. subscribes to the Natives, yes.

Mr. YOUNG. Well, but does the Administration support the Makah Tribe's treaty right to harvest whales?

Mr. HOGARTH. Yes.

Mr. YOUNG. OK. And do you see any change, I think you already answered it, in the policy of the United States toward aboriginal subsistence whaling under the new Administration?

Mr. HOGARTH. No, sir, I don't.

Mr. YOUNG. OK. Do you see any changes in the Administration's positions on any other issues before the IWC?

Mr. HOGARTH. No, sir. I think all the positions stay the same.

Mr. YOUNG. OK. Do you foresee any changes in policies regarding the U.S. aboriginal subsistence whaling and U.S. Native Americans treaty reserve whaling rights under the new Administration?

Mr. HOGARTH. I have no indication there will be any change.

Mr. YOUNG. I thank you, doctor. You have been a great ally when it comes to this issue over the years, and I understand you are leaving us and that is a sad day. Probably you will be happier, but it is a sad day. It is a great responsibility. You have done an outstanding job. I would just like to thank you for your work. Madam Chairman, thank you so much.

This is a very important hearing because it does affect American citizens, not someone living in Chicago, or someone living in New York, or someone living in San Francisco, it does affect people that are alive and have done this over the histories. I thank you for your time and consideration.

Ms. BORDALLO. Thank the gentleman from Alaska. Did you want to submit your statement?

Mr. YOUNG. Yes, I would like to submit this for the record.

Ms. BORDALLO. Hearing no objection, so ordered. I have further questions now for the witnesses. Dr. Hogarth, to summarize from your May 18 letter to the IWC commissioners, it comes as no surprise that the impediments to arriving at a package, or packages, are the issues of coastal whaling research under a special permit in sanctuaries. You state that you believe these issues will require more discussion before concrete recommendations can be put forward.

However, according to press reports, when Japan put a concrete recommendation on the table during a recent meeting in San Francisco, they only proposed to decrease their scientific whaling in the Southern Ocean by 29 whales and would still kill 650 whales, despite the fact that the IWC has said this scientific whaling is not needed. If our goal is to eliminate scientific whaling, how does Japan's proposal to continue to kill 650 whales, how is that reasonable?

Mr. HOGARTH. It is not reasonable. The U.S. does not think that it is a reasonable proposal whatsoever, and I think if Japan is not willing to discuss further, then I do not see any future for any resolution of this issue.

Ms. BORDALLO. Why, then, would you propose that the Commission continue its efforts for one more year?

Mr. HOGARTH. Madam Chair, that came out of the Small Working Group itself. It is not me. I really did not chair that group. It was chaired by Ambassador de Soto.

Ms. BORDALLO. The working group.

Mr. HOGARTH. The working group. In terms of reference, I was there, but I didn't chair it. I think there is a lot of desire by many members of the Commission to find a solution to the whale issue. We do feel like too many whales are being killed, more and more whales are being killed, they are not being killed under the IWC jurisdiction, and so I think the group would like to try to take another year to see if there is any way to find a solution to this issue. I think they feel like it is that important.



We made some headway in finally talking civil to each other. That took a while because those meetings were very contentious. That is the only thing we have done so far, I think. We did resolve some rules and procedure. There were 33 issues and they are all in various stages of resolution, but there are three main issues that have to be resolved. The U.S. supports the sanctuaries, but the U.S. has major problems with scientific whaling and major problems with this coastal whaling.

We agree totally with what Dr. Baker said. His scientific evaluation could have been made by our scientists at the IWC. There is no disagreeing among the scientists. Madam Chair, I don't really think there is a disagreement on the end with any group sitting here. I think we have how do we get to the end? That is what we have to work out. But, you know, we all want the same thing at the end; and that is better conservation of the whale stocks, a reduction in the numbers being killed, and that lethal taking of whales for scientific purposes is unnecessary today.

Ms. BORDALLO. You have been negotiating a long time, right?

Mr. HOGARTH. Too long.

Ms. BORDALLO. Well, this leads up to my next question. At the beginning of these negotiations you asked all participants to be prepared to compromise, so most members of the Commission have taken you at your word and have offered a number of concessions. They are considering a proposal that would lift the commercial whaling moratorium, give new rights to Japan to kill protected whales and condone scientific whaling, all without any safeguards in place to ensure compliance with international regulations.

They are even considering using an ad hoc method to calculate catch limits rather than the revised management procedure accepted by the Commission back in 1994. So can you tell me what concessions the whaling nations have offered in exchange during these negotiations?

Mr. HOGARTH. Madam Chair, at this point there are no proposals on the table. We went through this process. I was asked to put a process together. It was adopted by consensus, and there were 33 issues identified that the IWC needed to resolve. At this point they are looking at two stages.

One is a five-year stage in which there would be sort of a pause to try to negotiate further because most members, and some of them are great allies in this, Australia, New Zealand, for example, feels very strongly that something has to be done with Article VIII, but it is going to take longer than one or two years, so they are looking at like a five-year process in which the numbers would be reduced, and then you would look over the next five years to see if you could find a long-term solution.

We can't even get to the pause right now, and so it is very difficult. It is very disappointing to me, as the chair and as the U.S. Commissioner.

Ms. BORDALLO. Then, Dr. Hogarth, has Japan offered to substantially reduce or phase out its scientific whaling? Has Norway offered to reduce its commercial whaling? Has Iceland agreed not to recommence commercial whaling?

Mr. HOGARTH. Japan offered, and it is unacceptable what they offered, because it is, in our opinion, not a reduction. Norway sets

its quota based on the scientific advice from the IWC. Norway is a little concerned at this point that there is not anything in this process that they feel like will help them in the long term or bring them back into the IWC. So Iceland and Norway are an exception right now that has not been, I think, addressed by the Small Working Group. It is a concern to many of us, including Norway and Iceland.

Ms. BORDALLO. To follow-up, have any of the whaling nations agreed to stop trading in whale products under their reservations to the CITES ban?

Mr. HOGARTH. No, ma'am.

Ms. BORDALLO. Is it fair to reward Japan, a country that for over two decades deliberately flaunted the intent of an international agreement, when other countries abided by the convention?

Mr. HOGARTH. Well, I hope no one is looking to reward Japan. We are definitely not in the U.S.

Ms. BORDALLO. Has there ever been a cut-off date for negotiations?

Mr. HOGARTH. No, ma'am. If at this meeting, the meeting coming up in Madeira, if the Commission agrees, there will be a cut-off date of 2010 at the annual meeting, but it hasn't been. That is a recommendation from the Small Working Group, and it is one that the U.S. endorsed, that it can't go on, that it has to be done by the annual meeting in 2010.

Ms. BORDALLO. In the past, have there been cut-off dates that haven't been followed?

Mr. HOGARTH. Not since I have been involved, Madam Chair. There may have been, but not since I have been involved.

Ms. BORDALLO. All right. Ms. Block, how do you think that the new Administration should work together with other nations to modernize the IWC and transform it from the International Whaling Commission into the International Whale Commission?

Ms. BLOCK. It is a very good question, and one that needs a lot of thought and energy directed toward it, but it is an old convention and it needs to be modernized. The idea that you would start compromising and giving away parts of it while it is sort of a leaky ship makes no sense. You have to get rid of objections and reservations because anything that would ever be adopted into the schedule, any mechanisms to monitor or control, countries could simply object and not be bound by it. That is enshrined in the convention.

Iceland quit and came back as a new member and objected and took a reservation to something that they agreed to when they first were a member, the moratorium. So the idea that you could start trading away and saying we will lift partially the moratorium in exchange for something else is, it is bad timing. You have to clean up the IWC first, you have to modernize the convention, you have to look at ways to address Article VIII, bring it into conformity with other conventions, and then if you want to start talking about how you maneuver things and how you bring countries into line, that is when you start doing it.

It is almost, it is being done backwards. It is lifting protections before we have even solidified the protections. So I would recommend going at it the other way and actually modernizing it, looking at how you remove the ability to take objections, how you

remove the ability to take reservations and how you are bound not to exploit the moratorium.

Ms. BORDALLO. Thank you. Thank you. I have another question. How did Dr. Hogarth conduct Small Working Group meetings with respect to allowing participation by nongovernmental operations or organizations?

Ms. BLOCK. It was something that was very disconcerting to us. The IWC has been a transparent body, and except for a few select bodies that we knew about in the rules procedure, this was conducted in a very different manner. Collectively, we have decades of experience. We are lawyers, we are scientists, we were advocates. Humane Society alone represents 11 million members and supporters, and the fact that we were not able to participate and not able to see the documents until months later is incredibly disconcerting and it gave us no faith or credit in our government's negotiating.

Ms. BORDALLO. Dr. Hogarth, I will let you have an opportunity to speak to that same question.

Mr. HOGARTH. Thank you, Madam Chair, because the terms of reference for this Small Working Group were put together by the full Commission. All members, all 83 at the time, put terms of reference together for the Small Working Group. It was not chaired by me, it was chaired by an ambassador, but during the process they decided, after consultation with three facilitators we hired, each individual member, that they wanted some closed sessions because they felt like they needed closed sessions to be able to talk freely about the issues.

It was not my decision, it was not Hogarth's decision, it was the consensus decision by the IWC commissioners. So there were closed sessions. I want to point out one thing. Since I was chair, I have opened up the meeting's speaking rights for the NGO's.

They didn't have speaking rights until I became chair, and for two years I have opened up and at least given them a limited opportunity, although I have gotten some static from some countries, and I plan to do it at this annual meeting this year, and they will have an opportunity to speak on the Small Working Group report. So it will be an opportunity this year. But I am not a dictator, and I have to do what the body tells me to do.

Ms. BORDALLO. Dr. Hogarth, but you commented that the Small Working Group was closed.

Mr. HOGARTH. Yes, ma'am. It was closed. The terms of reference that set up the Small Working Group said that they should be closed sessions so that—the members asked for that because they felt like it was easier for them, they needed the opportunity to talk free among themselves and they couldn't do it in an open setting.

Ms. BORDALLO. And that was during your administration.

Mr. HOGARTH. That was during my time as chair, but the Commission voted for it. I didn't dictate it, it was voted by the Commission to do it. That is why Ambassador de Soto closed the meetings, because he was the chair and that was the terms of reference given to him to operate.

Ms. BORDALLO. Now, I am just curious, you know, as chair, did you vote for or against this closure?

Mr. HOGARTH. As chair, I do not vote.

Ms. BORDALLO. You did not vote. All right. Dr. Baker, I have a question for you. From a conservation perspective, what do you think about reducing whaling in one area and increasing whaling in another as a solution to conserving typically still struggling whale populations?

Mr. BAKER. I don't think there is good science that would guide us in that direction. I think the only negotiations that are worth pursuing are an end to scientific whaling. What you would be willing to trade for that, of course, obviously is a point of considerable discussion, but the RISE management procedure, you know, does provide a scientific basis for setting quotas.

Frankly, most of these populations would have zero quotas. They wouldn't sustain any catch, with perhaps the one exception of the Antarctic Minke Whale. The problem there, of course, is that is in the Southern Ocean sanctuary, so Japan is really in contravention of two of the majority agreements of the IWC, both the moratorium and the Southern Ocean sanctuary.

Ms. BORDALLO. And another question for you. For the record, can nonlethal whale research result in better and more cost-effective science, and how does the IWC scientific committee agree with you?

Mr. BAKER. Yes, absolutely, Madam Chair. The nonlethal methods have made tremendous advances in the last two decades with living whale populations. I am involved in a study of North Pacific Humpback Whales that involved collection of more than 6,000 biopsy samples and 20,000 individual identification photographs across the entire ocean basin, and there are similar exercises on Humpback Whales. There are studies on Humpback Whales in the North Atlantic and we are trying to coordinate one in the southern hemisphere.

This is where I think the IWC has to move forward. Although it embraces these methods within the limits of the scientific committee, we are too frequently frustrated by the time we have to spend on these divisive issues with Japan. Frankly, there are good opportunities to collaborate, even with Japan. I mean, they need encouragement in this regard, but they are very divisive, and so I think it is obstructing scientific progress within the committee as well.

Ms. BORDALLO. I have one further question for you, Dr. Baker. Could you please expand upon your thoughts on the Small Working Group process? The closed door sessions and the contents of the Small Working Group draft report that was published on Monday.

Mr. BAKER. Yes, Madam Chair, I can, only in the sense of my own personal opinion. Of course, the scientific committee acts quite independently of the Commission, and so my experience with the Commission is really only through advising primarily the New Zealand commissioners in the past. So I don't support closed sessions, but I can understand the chair's inclination to think that this would allow the members to progress.

Japan and other fora in the last few years, particularly the Pugh Trust meetings, have indicated that they were willing to make concessions. I think that has proved to be misleading. So it drew people in, in good faith, thinking that they were going to get a good outcome and that just hasn't transpired. That is just my personal opinion.

Ms. BORDALLO. Are there any other comments that any of you wish to add to this testimony?

Mr. HOGARTH. Madam Chair, at the end of this I would like to make a statement. If you are through.

Ms. BORDALLO. Of course, Dr. Hogarth. Go ahead.

Mr. HOGARTH. You know, I am at the end, I already retired and this will be, I feel pretty sure, my last hearing. I would like to thank you and the Members of this committee. It has been a very good committee, over the years that I have been involved in Fisheries, to really air the issues and to have a good discussion, and so I really appreciate you doing this.

I am very disappointed that I am leaving the chairmanship and the U.S. Commissioner with the IWC still killing lots of whales, doing scientific whaling and that, you know, we just can't seem to resolve it. I feel very disappointed. I think we all have the same end point and it is just how to get there. I have done nothing that I feel like that I have given up any U.S. positions. I have not done any dealings.

I have to admit that I did do one deal with Japan two years ago. I convinced them not to take Humpbacks in the Southern Ocean because I felt like if they took a Humpback in the Southern Ocean that this whole process would fall by the wayside. They have agreed for two years. I did just want to thank you and the Members because I feel very honored and fortunate to have worked for the government as head of Fisheries. What I have done I have always done in my best judgment that it would improve the situation.

I have no hard feelings against anyone. I have nothing except respect for people who are trying to work on this very complex issue. I feel very confident in the dealings I have had with the Obama Administration to this point since they have come into office to really get involved in this issue, to go to the Small Working Groups and to participate. This Administration will use every means of diplomatic means that it has to resolve this issue and to put pressure in the right places. So I hope that a year from now you will see the results of this new Administration, its abilities to do this.

Ms. BORDALLO. Well, thank you very much, doctor. I want to thank you for your service in the past. Ms. Baker, do you have any comments to make before we close?

Ms. BLOCK. Just very briefly. Thank you for this, and especially this committee has been very important in how we move forward with protection of whales. On behalf of our membership and the U.S. Whales Need Us Coalition, which is made up of NGO's from around this country, we thank you for your efforts and your ongoing concern about the situation with whales. We hope you stay involved, and we thank you.

Ms. BORDALLO. Thank you. Thank you very much. I do have a request from Congressman Young. He asked unanimous consent that the Alaska Eskimo Whaling Commission and the Makah Tribe be allowed to submit a statement following the hearing. Hearing no objection, so ordered. I want to thank all of the witnesses for their participation in the hearing today. Members of the Subcommittee may have some additional questions for the witnesses, and we will ask you to respond to these in writing.

The hearing record will be held open for 10 days for these responses. Again, I want to thank the members of the panel for being here. I think we have learned a great deal, and we will continue to investigate, and hopefully something will come of all of this as we proceed forward. So if there is no further business before the Subcommittee, the Chairwoman again thanks the Members of the Subcommittee and our witnesses. The Subcommittee stands adjourned.

[Whereupon, at 2:12 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

[A statement submitted for the record by Nancy Sutley, Chair, Council on Environmental Quality, and Dr. Jane Lubchenco, Administrator, National Oceanic and Atmospheric Administration, follows:]

**Statement submitted for the record by Nancy Sutley, Chair, Council on Environmental Quality, and Dr. Jane Lubchenco, Administrator, National Oceanic and Atmospheric Administration**

We have submitted this written statement to the Subcommittee in order to respond to the request that the Obama Administration provide its views on the upcoming 61st annual meeting of the International Whaling Commission.

The Obama Administration began while the Future of the IWC process was well underway. The Administration fully understands the complexities of, and concerns regarding, this process and the key issues facing the IWC. The Administration has asked the current United States Commissioner, Dr. William Hogarth to hold over in his post through the June annual meeting so that he can remain Chairman of the Commission, a position that he holds as an individual. We appreciate Dr. Hogarth's leadership as both U.S. Commissioner and IWC Chair and his success at bringing a respectful level of discourse among the IWC members as they discuss the difficult issues facing the IWC. We expect the President to appoint a new U.S. Commissioner to replace Dr. Hogarth following the end of this year's IWC meeting.

As we have stated earlier, the Administration would like to see the International Whaling Commission (IWC) serve as the premier international forum to resolve current and emerging whale conservation issues and coordinate critical research. In this context, conservation of whales is of the utmost priority to the Obama Administration. Most importantly, the United States continues to view the commercial whaling moratorium as a necessary conservation measure because the abundance of most whale stocks are either too unknown, too low, or still recovering, and there is not yet an effective, comprehensive conservation scheme for whales that will guarantee their survival.

The Administration also strongly opposes lethal scientific whaling and considers it unnecessary in modern whale conservation management, and believes that the use of objections, reservations and an expansive interpretation of Article VIII (special permit scientific whaling) undermine the moratorium and the institution. The Administration moreover has significant concerns over the recent resumption of international trade of whale meat with imports by Japan, and exports by Iceland and Norway.

Nevertheless, the Administration is committed to furthering discussions of critical issues within the IWC because it is important for the IWC to function effectively. The IWC should be a model for international cooperation on the conservation and use of a shared global resource. It is important for us now to try to find common ground among IWC members, which are many of the same nations with whom we need to cooperate on even more urgent international environmental matters. However, we reserve judgment on various proposals regarding a way forward on the IWC until discussions are completed, which, in our view must occur before the annual meeting in 2010. The time to resolve these issues is now. It is our view that any resolution of outstanding issues, to be acceptable, must result in a significant improvement in the conservation status of whales and be based on sound science.

In closing, the failure to resolve these issues is not an acceptable outcome to the United States. We intend to use the Administration's influence to achieve a resolution by 2010 that will ensure the long-term functioning of the IWC, and greater protections for the world's great whales.

